IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.11 OF 2005

IN

SUMMARY SUIT NO.1353 OF 1984

Ashok Waman Phansalkar .. .. Petitioner

Versus

Dharamdas Manilal Jhaveri .. Respondents

Mr.Rohit Kapadia with Yash Kapadia i/b M/s.Meghraj & Associates for petitioner

Mr.Snehal Shah with Sanjay Kotak i/b Purnanand & Co. for respondent No.1

Ms Pratibha Mehta i/b Little and Co. for respondent no.3

CORAM : P.V.KAKADE, J.

DATE : 6TH OCTOBER, 2005.

P.C.:

1. This is a review petition to get the order dated 16th June, 2004 reviewed to the extent for direction

that the order passed in Notice of Motion NO.2223 of 2003 shall stands continued till the suit claim is satisfied.

2. After hearing both the parties and perusing the order dated 7.8.2003 it is clear that the order passed in Notice of Motion No.2223 of 2003 was passed in order to secure creditors involved in the dispute. The suit No.1353 of 1984 is decreed in terms of prayer the order dated 16.6.2004 and while passing the decree the above noted direction was issued in order to secure the claim of the plaintiff. However, it is submitted today that the present Petitioner is a stranger, who has already moved a Notice of Motion being Notice of Motion No.2989 of 2003 to set aside the order dated 7.8.2003. If it is the case, then that notice of motion should be persuaded and this review cannot be adjudicated pending the Notice of Motion No.2989 of 2003 filed by the present petitioner. The petitioner to move this court for review of the order after his notice of motion is duly adjudicated on merits.